

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

HENRY A. CARDENAS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
CITY OF CHICAGO, A.R. CARRANZA,	)	
DAVID T. TENCZA, M.S. FOSTER,	)	08 CV 2452
R.A. KERO, M.J. DARLING,	)	
T.M. ROSALES, T.V. TANTILLO,	)	
E.L. MURPHY, J.D. DOSKOCZ,	)	
and R.R. AGUILAR	)	
	)	
Defendants.	)	

**FIRST AMENDED COMPLAINT**

NOW COMES Plaintiff, HENRY A. CARDENAS, by and through his attorneys, Katz Law Office, Ltd., and in support of his First Amended Complaint against Defendants City of Chicago and Chicago Police Officers A.R. Carranza, David T. Tencza, M.S. Foster, R.A. Kero, M.J. Darling, T.M. Rosales, T.V. Tantillo, E.L. Murphy, J.D. Doskocz, and R.R. Aguilar, he states as follows:

1. This is an action for damages for wrongful arrest, search, and seizure with respect to Plaintiff Henry Cardenas's residence and property on June 17, 2007, and the subsequent failure to return such property.

2. Plaintiff is seeking compensatory and punitive damages from the Defendant City of Chicago and Chicago Police Officers A.R. Carranza, David T. Tencza, M.S. Foster, R.A. Kero, M.J. Darling, T.M. Rosales, T.V. Tantillo, E.L. Murphy, J.D. Doskocz, and R.R. Aguilar, for violating 42 U.S.C. § 1983 by acting under color of state law to deprive Plaintiff of his right

to be free from unreasonable search and seizure under the Fourth Amendment of the United States Constitution.

3. Plaintiff is seeking compensatory damages from Defendant City of Chicago and Chicago Police Officers A.R. Carranza, David T. Tencza, M.S. Foster, R.A. Kero, M.J. Darling, T.M. Rosales, T.V. Tantillo, E.L. Murphy, J.D. Doskocz, and R.R. Aguilar for its actions under color of state law which deprived Plaintiff of his right to bear arms under the Second Amendment of the United States Constitution.

4. Plaintiff is seeking the return of his wrongfully confiscated property.

#### **PARTIES AND JURISDICTION**

5. Plaintiff Henry A. Cardenas was the victim of an illegal search, seizure, and arrest by Chicago Police Officers A.R. Carranza, David T. Tencza, M.S. Foster, R.A. Kero, M.J. Darling, T.M. Rosales, T.V. Tamtillo, E.L. Murphy, J.D. Doskocz, and R.R. Aguilar.

6. Defendants A.R. Carranza, David T. Tencza, M.S. Foster, R.A. Kero, M.J. Darling, T.M. Rosales, T.V. Tantillo, E.L. Murphy, J.D. Doskocz, and R.R. Aguilar (the "Defendant Officers") were, variously, the perpetrators of the illegal search, seizure, and arrest.

7. Defendant City of Chicago is the municipal entity under whose authority the Defendant Officers acted, and that has failed, to date, to return Plaintiff's property.

8. Venue is proper in this judicial district under 28 U.S.C. §1391(b).

9. This Court has personal jurisdiction over all Defendants under 28 U.S.C. §1331.

#### **FACTUAL ALLEGATIONS**

10. Plaintiff is a resident of the State of Illinois.

11. At the time relevant to this First Amended Complaint, Plaintiff resided at 3453 West 38<sup>th</sup> Street, Chicago, Illinois, in an attic apartment.

12. On June 17, 2007, certain of the Defendant Officers arrived outside of Plaintiff's residence at approximately 6:00 a.m. and knocked at the ground-level front door of Plaintiff's residence.

13. When Plaintiff's landlord opened the first-floor front door of Plaintiff's residence, the Defendant Officers entered without consent and without presenting a valid search warrant.

14. The Defendant Officers represented to Plaintiff's landlord that they were searching for a 17-year-old whom they ostensibly believed was present at Plaintiff's residence.

15. Following their unlawful entry of the residence, certain of the Defendant Officers proceeded to knock at the door of Plaintiff's attic apartment.

16. When Plaintiff's wife opened the apartment door, one of the Defendant Officers flashed her in the eyes with a police-issued flashlight and proceeded to enter Plaintiff's attic apartment without consent and without presenting a valid warrant.

17. All of the Defendant Officers present began to unlawfully search the Plaintiff's apartment specifically and the residence generally.

18. Shortly thereafter, additional Defendant Officers arrived and entered Plaintiff's residence without consent and assisted in the unlawful search of the entire premises.

19. All of the Defendant Officers who entered and searched Plaintiff's residence did so without consent and without producing a valid search warrant.

20. As a result of their unlawful search of the residence, the Defendant Officers found thirteen of Plaintiff's firearms.

21. The Defendant Officers unlawfully arrested Plaintiff and unlawfully seized thirteen of his firearms – several of which are family heirlooms and collectible, irreplaceable



items – and wrongfully charged Plaintiff with thirteen misdemeanor counts of unlawful possession of firearms.

22. On September 11, 2007, the Circuit Court of Cook County dismissed all thirteen charges against Plaintiff because none of the Defendant Officers appeared on the scheduled court date.

23. The court, however, refused to return the confiscated firearms to Plaintiff.

**COUNT I - 42 U.S.C. § 1983 DEPRIVATION OF RIGHTS BY CITY OF CHICAGO  
WHICH HAS AN UNOFFICIAL POLICY OF NOT DISCIPLINING OFFICERS  
WHO ABUSE POLICE AUTHORITY.**

24. Plaintiff repeats and re-alleges paragraphs 1-23 as though fully set forth herein.

25. Defendant City of Chicago has engaged in a widespread practice that, although not authorized by law or express policy, is so well settled as to constitute custom or usage.

26. Defendant City of Chicago regularly fails to mandate the discipline of Chicago Police Department (“CPD”) officers for their frequent unlawful and unconstitutional behavior, as it failed to do in this instance with respect to the Defendant Officers. By failing to mandate discipline in such situations, Defendant City of Chicago condones and allows this type of abuse of power from CPD officers.

27. Condoning and allowing such abuse of power constitutes a custom or unofficial policy of allowing CPD officers to abuse their position, confident that they will be shielded from consequences.

28. The Defendant Officers were not disciplined for their unreasonable search and seizure and for the subsequent unwarranted arrest of Plaintiff.

**COUNT II – FOURTH AMENDMENT VIOLATION OF PLAINTIFF’S RIGHT TO NOT  
BE SUBJECTED TO UNREASONABLE SEARCH AND SEIZURE BY CITY OF  
CHICAGO AND CHICAGO POLICE OFFICERS A.R. CARRANZA, DAVID T.**

**TENCZA, M.S. FOSTER, R.A. KERO, M.J. DARLING, T.M. ROSALES, T.V.  
TANTILLO, E.L. MURPHY, J.D. DOSKOCZ, AND R.R. AGUILAR.**

29. Plaintiff repeats and realleges paragraphs 1-28 as though fully set forth herein.
30. The Defendant Officers had no warrant to search Plaintiff's residence.
31. The Defendant Officers did not obtain Plaintiff's consent to enter or search his residence.
32. The Defendant Officers had no probable cause to search Plaintiff's residence.
33. At or around the time of the Defendant Officers' unlawful search, no evidence existed indicating the presence of an emergency, exigent circumstances, or physical danger which would serve to justify the Defendant Officers' warrantless entry.
34. The Defendant Officers unlawfully searched Plaintiff's residence.
35. The Defendant Officers unlawfully took Plaintiff into custody and unlawfully seized thirteen of his firearms.

**COUNT III – SECOND AMENDMENT VIOLATION OF RIGHT TO BEAR ARMS BY  
CITY OF CHICAGO AND CHICAGO POLICE OFFICERS A.R. CARRANZA, DAVID  
T. TENCZA, M.S. FOSTER, R.A. KERO, M.J. DARLING, T.M. ROSALES, T.V.  
TANTILLO, E.L. MURPHY, J.D. DOSKOCZ, AND R.R. AGUILAR.**

36. Plaintiff repeats and realleges paragraphs 1-35 as though fully set forth herein.
37. Plaintiff possesses a valid FOID (Firearm Owners Identification) card, which he presented to the Defendant Officers at the time of their unlawful search on June 17, 2007.
38. The Defendant Officers seized Plaintiff's guns during an unreasonable search and seizure of Plaintiff's residence.
39. Defendant City of Chicago has refused to order the return of Plaintiff's firearms, depriving Plaintiff of his right to bear arms.

WHEREFORE, Plaintiff, HENRY A. CARDENAS, prays that this Honorable Court enter judgment in his favor and against Defendants:

- (a) CITY OF CHICAGO for compensatory damages, legal costs and expenses, the return of Plaintiff's property, and for such other relief as this Court deems just.
- (b) CHICAGO POLICE OFFICERS A.R. CARRANZA, DAVID T. TENCZA, M.S. FOSTER, R.A. KERO, M.J. DARLING, T.M. ROSALES, T.V. TANTILLO, E.L. MURPHY, J.D. DOSKOCZ, and R.R. AGUILAR, for compensatory damages, punitive damages, legal costs and expenses, the return of Plaintiff's property, and for such other relief as this Court deems just.

Respectfully Submitted,

/s/ J. David Pedraza

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Attorney for Plaintiff

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